



# Abuse in Care

Royal Commission of Inquiry

## **Redress Submission Process Abuse in Care Royal Commission**

**5 May to 16 June**

**Submission on behalf of The Anglican Church in Aotearoa, New Zealand and  
Polynesia, *Te Hāhi Mihinare ki Aotearoa ki Niu Tirenī, Ki Ngā Moutere o te  
Moana Nui a Kiwa***

## Background

The Abuse in Care Royal Commission is calling for submissions on potential changes to redress schemes in Aotearoa New Zealand for survivors of abuse in care.

Redress refers to actions that set right, remedy or provide reparations for harms or injuries caused by a wrong, such as abuse. Redress can take many forms, including:

- Payments of money
- Physical, emotional and psychological rehabilitation or other assistance through counselling and other health and social services
- Acknowledgment of and apology for abuse that occurred
- Memorials for survivors of abuse
- Criminal prosecutions
- Taking steps to prevent further abuse.

A redress scheme is a way for survivors to make a claim for abuse or neglect without having to go to court. These schemes are sometimes referred to as out-of-court redress schemes. The Royal Commission has gathered evidence of survivor experience of redress schemes in Aotearoa New Zealand through public hearings, collecting witness statements and listening to survivors in private sessions. We have also heard from the government and faith-based institutions about how they run their various redress schemes.

Survivors have told the Royal Commission that government and faith-based institutions have not responded adequately to their complaints of abuse. Survivors have said that this has added to their ongoing trauma and have made strong calls for change. They have said that a new redress scheme independent from government and faith-based institutions is needed. Representatives of government and the faith-based institutions heard by the Royal Commission have generally not opposed this call or have supported it in principle.

In its interim report *Tāwharautia: Pūrongo o te Wā*, the Royal Commission outlined its current view of the main general principles required to make redress effective. We are now considering the option of an independent redress scheme, and other potential changes, in more detail.

**Below** are the questions on which the Royal Commission is seeking submissions. If you have already provided information to the Royal Commission, this will be taken into account. We would appreciate any new or additional information you would like to supply.

The Royal Commission will receive submissions from **5 May - 16 June** (inclusive).

You can make a submission in the following ways:

1. **Download** this submissions template (located on the Abuse in Care Royal Commission website:  
<https://www.abuseincare.org.nz/survivors/how-to-get-involved/redress-submissions>)  
Save the form, fill it in and email it back to [submissions@abuseincare.org.nz](mailto:submissions@abuseincare.org.nz)
2. **Print the printable version** of the submissions template (located on the Abuse in Care Royal Commission website:

<https://www.abuseincare.org.nz/survivors/how-to-get-involved/redress-submissions>)

Fill in the form and return it in hard copy to the following address:

Royal Commission of Inquiry  
PO Box 10071  
The Terrace  
Wellington 6143

3. **Phone / email** our Contact and Support Centre if you require further assistance:

- (0800) 222-727 (weekdays 8am to 6pm NZT), excluding public holidays
- (1800) 875 745 if calling from Australia
- Email: [submissions@abuseincare.org.nz](mailto:submissions@abuseincare.org.nz)

If you wish to make a submission in a different format (such as an audio file) or need support to make a submission, please phone or email our Contact Centre and they can discuss other options with you.

Note that you do not have to respond to each question.

We will consider the information you provide in developing recommendations to government and faith-based institutions on how best to provide effective redress to survivors of abuse in care.

We recognise that sharing your submission may be difficult for some people. If you need support, you can contact any of the providers below or call us on 0800 222 727 or email [submissions@abuseincare.org.nz](mailto:submissions@abuseincare.org.nz)

#### **WHERE TO GET HELP:**

**If you are worried about your or someone else's mental health, the best place to get help is your GP or local mental health provider. However, if you or someone else is in danger or endangering others, call police immediately on 111. Or if you need to talk to someone else:**

- **LIFELINE: 0800 543 354 (available 24/7)**
- **SUICIDE CRISIS HELPLINE: 0508 828 865 (0508 TAUTOKO) (available 24/7)**
- **YOUTHLINE: 0800 376 633**
- **NEED TO TALK? Free call or text 1737 (available 24/7)**
- **KIDSLINE: 0800 543 754 (available 24/7)**
- **WHATSUP: 0800 942 8787 (1pm to 11pm)**
- **DEPRESSION HELPLINE: 0800 111 757 (available 24/7)**
- **SAMARITANS: 0800 726 666**
- **OUTLINE: 0800 688 5463 (confidential service for the LGBTQI+ community, their friends and families)**
- **RURAL SUPPORT TRUST: 0800 787 254**

## Privacy

We may use material from submissions for the purposes of the Inquiry, including by sharing it with other participants. We may name people and organisations who have made a submission, and their representatives, and refer to what they have said in published material including reports. If your submission contains any information that you do not want published, or if you wish to make an anonymous submission, please state this in your submission with a brief statement of the reasons for seeking that confidentiality.

For more information on the Inquiry's general approach to privacy, see [www.abuseincare.org.nz/footer-navigation/privacy/](http://www.abuseincare.org.nz/footer-navigation/privacy/).

# Submitter information

The Royal Commission would appreciate it if you could provide some information about yourself. Any information you provide will be stored securely.

## A. About you

Name:

The Anglican Church in Aotearoa, New Zealand and Polynesia, *Te Hāhi Mihinare ki Aotearoa ki Niu Tirenī, Ki Ngā Moutere o te Moana Nui a Kiwa*

Email address:

The Legal Team for the Anglican Church: [Jeremy.johnson@bankside.co.nz](mailto:Jeremy.johnson@bankside.co.nz); [Fiona.guykidd@montrosechambers.co.nz](mailto:Fiona.guykidd@montrosechambers.co.nz); [bdgray@shortlandchambers.co.nz](mailto:bdgray@shortlandchambers.co.nz); [greg.simms@wynnwilliams.co.nz](mailto:greg.simms@wynnwilliams.co.nz); [india.shores@wynnwilliams.co.nz](mailto:india.shores@wynnwilliams.co.nz)

## B. Are you happy for the Royal Commission to contact you if we have questions about your submission?

Yes

No

## C. Are you making this submission on behalf of a business or organisation?

Yes

No

If yes, please tell us the title of your company/organisation.

The Anglican Church in Aotearoa, New Zealand and Polynesia, *Te Hāhi Mihinare ki Aotearoa ki Niu Tirenī, Ki Ngā Moutere o te Moana Nui a Kiwa*

## D. Do you have any further information about yourself that you would like to share? If so, please do so in the comment box below.

## Redress public engagement: questions

You are invited to respond to as many or as few questions as you like, depending on your interests.

### Question 1

**What do you think an out-of-court redress scheme or schemes for claims of abuse in care should try to achieve? In other words, what do you think a redress scheme's purpose or objectives should be?**

The purpose of any redress scheme should be to provide acknowledgement and redress for abuse suffered by and harm caused to survivors in an efficient, fair, safe and transparent manner.

The objectives should be:

- to consider and resolve claims as quickly and efficiently as they can be through a trauma-informed process, starting from a position of belief and without imposing exacting standards of proof;
- to handle claims and provide redress in a culturally appropriate manner, incorporating the principles and frameworks of mātauranga Māori including concepts such as whakapapa (genealogy/kinship/relationships), whanaungatanga (broader relationships, whanau obligations), kaitiakitanga (protection and nurture of whanau and the environment), manaakitanga (effort and resource required to care for others) and aroha (love/empathy/compassion);
- transparency so that survivors and others involved clearly know the expected process, timeframes and likely outcomes and there is no secrecy about claims (except to the extent desired by the survivor);
- ensure that redress is holistic – incorporating financial, spiritual and emotional redress – is focussed on the needs of the survivors and their reasonable wishes – while acknowledging that any financial redress will be unlikely to provide full compensation but that is appropriate given a full legal process is not occurring;
- fairness – subject to the reasonable wishes of the survivor, like cases should be treated as like. There should not be different treatment or outcomes depending on the institution where the abuse occurred; and
- reconciliation – in circumstances where a survivor is willing and wants to engage in a reconciliatory process, the redress scheme should work to promote reconciliation acknowledging that reconciliation can only occur where there has been an acknowledgment of wrong-doing.

It is important that any redress scheme does not become an uncaring bureaucracy which causes further harm to survivors.

## Question 2

### Who should make decisions on redress claims, and what should any new redress scheme do?

*At the moment, survivors can make out-of-court redress claims to government agencies and/or faith-based institutions. Those agencies and institutions also respond to and defend court cases by survivors seeking redress.*

*A. Who do you think should make decisions on claims by survivors for out-of-court redress?*

- *Existing government agencies and faith-based institutions?*
- *An organisation or organisations independent from government and faith-based institutions?*

Presently there are two ways for a survivor to try and obtain redress. One is through the court system by way of a civil claim. That is the recognised way for outcomes to be imposed on people without agreement. The other is through engagement with the institution where agreement is then reached.

The court system does not adequately meet the needs of survivors. It is not survivor focussed, looks solely at economic remedies and cannot provide spiritual or emotional support. The law as it stands makes claims against institutions very difficult to successfully bring. There are policy reasons for some of these features – particularly the principle of natural justice when it comes to legal claims.

In some cases, institutions have (historically at least) been unable to resolve claims in a fair or compassionate way. However, some institutions have done so and others have had no claims.

The question is – what is the best way to resolve these claims given these two issues?

Creating a further independent body, while depriving institutions of their right to agree or not, may end up being unsatisfactory.

It may be better to instead look at replacing the right to go to court for redress with the right to go through an independent body on the basis of the principles outlined earlier. In essence it would be an independent process, which would be binding on parties, able to consider non-economic redress and with a more trauma-informed, less exacting, approach to proving allegation of serious misconduct.

The consequences would be that full legal rights might not be vindicated but survivors would have more certainty through a quicker and less confronting process. At the same time the independent body should provide holistic redress beyond the scope of what the courts can. It should also be acknowledged that given the current law claims against institutions are difficult and it will be only rarely that legal liability would be found through a court process.

In essence the independent redress scheme should provide survivors with greater likelihood and certainty of redress than civil claims through the court system.

It should still be open to survivors to approach organisations directly as well as an alternative independent body. Survivors should not be deprived of their right to approach organisations directly if it is their preference.

*B. If you think claims should be decided by an independent organisation, what would need to be done to make the organisation independent? For example:*

- *Who should choose who leads the organisation and works for it?*
- *Who should the organisation report to?*
- *Where should the organisation's funding come from?*

The independent body should be appointed by the Governor-General on the recommendation of the House of Representatives. This is the same as for ombudsmen and the members of the Independent Police Conduct Authority.

This will ensure a level of independence from the government given the scrutiny of appointments offered by the opposition members of the House of Representatives.

The independent body should report to Parliament on at least an annual basis.

Funding for administration should be from funds appropriated by Parliament.

*C. If you think claims should be decided by an independent organisation, do you think that the organisation should involve government agencies, faith-based institutions, and individuals named as abusers in some way? If you do think that, what do you think that involvement should be? For example:*

- *should individuals and institutions named in applications for redress as abusers or as places where abuse happened be asked to respond to the application?*
- *should the organisation arrange for government agencies, faith-based institutions and individuals who accept responsibility for abuse to make apologies directly to survivors?*



We consider that any redress regime should be available for all survivors no matter where their abuse occurred. All institutions that care for vulnerable people – be they faith-based institutions, gymnastics clubs, swimming clubs, drama workshops, school holiday programmes or the like should be included in the redress scheme.

In all cases individuals and institutions named in applications for redress should be notified. However, the nature and extent of the involvement of individuals and institutions named depends on the approach of the independent body to fact finding and publication of details.

If the starting principle is one of belief and with a high-level assessment process, without necessarily public findings about specific allegations against individuals or institutions, then the nature of involvement should be limited to:

- production of relevant information (for example provide files relating to the survivor or alleged abuser);
- commentary on current practices and policies relevant to assessing the risk of abuse occurring again; and
- engagement and comment on redress sought by the survivor. That would include arranging and allowing for direct apologies where wanted by the survivor; offering this to survivors is important to ensuring holistic redress.

However, if there is an intention to make full factual findings of specific allegations, and publish findings against individuals and institutions, then a process closer to a court system will need to occur to ensure that natural justice rights are respected. That would be contrary to the objective of the independent body outlined earlier and risk the loss of some of the benefits of a non-adversarial process.

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*D. If you think claims should be decided by an independent organisation, what do you think this organisation should be able to do? For example:*

- *Investigate claims of abuse and neglect?*
- *Make findings on claims of abuse and neglect?*
- *Where appropriate, hold individuals and institutions responsible for abuse and neglect?*
- *Arrange legal advice for survivors making claims?*
- *Arrange advocacy for survivors making claims?*
- *Arrange cultural support for survivors making claims?*
- *Help survivors access information about them, such as their records from their time in care?*
- *Make decisions on redress for survivors or just make recommendations to another organisation?*
- *Make decisions public or keep them private?*
- *Provide or arrange for survivors to receive services (like counselling, health and other rehabilitative services)?*
- *Make reports on abuse and neglect affecting groups of survivors or at particular places? Put another way, should an independent organisation report on systemic or broader issues beyond individual claimants?*

The independent body should be empowered to:

- assess claims of abuse for redress purposes, starting from a position of belief and to a lower standard of proof than required through a civil legal process so that the body is reporting they are satisfied there is a real possibility of abuse having occurred;
- make findings that there is a real possibility of abuse having occurred and that an institution or individual may have been responsible;
- hold institutions responsible through orders for redress including financial redress up to a set amount;
- make recommendations to institutions for changes to policies and processes to minimise the risk of abuse in the future;
- provide full support for survivors who come forward including by way of:
  - Assistance in accessing information about them including records held;
  - Arrange for cultural support and counselling;
  - Arrange for advocacy assistance and legal advice for the purposes of the redress process.
- fairness may require that named abusers also have access to legal advice if findings may be made against them and/or published;
- make decisions on redress public with the consent of the survivor; and
- report to Parliament on systemic and broader issues beyond individual claimants.

*E. Do you think that any new organisation should not be allowed to do some of these things?*

The independent body should not be able to hold individuals accountable nor to make findings against individuals unless a more rigorous process for testing allegations is incorporated. This is to ensure that the principles of natural justice are respected, and the reputations of individuals are not unfairly tarnished.

*F. If you think any new organisation should not be allowed to do some of these things, why do you think that?*

As above.

### Question 3

**What types of abuse should survivors be able to seek out-of-court redress for?**

*What types of abuse should be included in a redress scheme? For example:*

- (a) Physical, sexual, emotional and psychological abuse?
- (b) Neglect?
- (c) All of those types of abuse?
- (d) Only one or some of those types of abuse?
- (e) Only abuse which results in serious mental or physical harm to the survivor?
- (f) Other types of abuse?

*Tell us what you think and why*

The redress scheme should cover physical, sexual, emotional, spiritual and psychological abuse and neglect which results in serious mental or physical harm to the survivor.

A standard of serious mental or physical harm should be adopted as a gateway because while all abuse and neglect is wrong the need for intervention and holding people accountable is especially justified when there is serious mental or physical harm that results.

This would exclude from the redress scheme any conduct that was socially acceptable at the time that did not cause serious mental or physical harm to the survivor.

Individuals would not be precluded from raising their experiences directly with institutions where the harm was less than "serious".

#### Question 4

##### What claims should be covered by a redress scheme?

A. *If a new redress scheme were established for claims of abuse in care, do you think it should be able to look at:*

- *only abuse that happened in the past?*
- *abuse that is happening now?*
- *all abuse, whenever it happens (including in the future)?*

The redress scheme should be a permanent scheme. Abuse and neglect continues in our society and that should be acknowledged.

B. *Do you think that a redress scheme should:*

- *close after it has made decisions on particular claims? For example, claims relating to abuse that happened between 1 January 1950 and 31 December 1999?*
- *stay open for as long as claims are made to it?*

The redress scheme should stay open permanently.

C. *Do you think that a redress scheme should be able to consider claims from survivors who have already received out-of-court redress from government agencies or faith-based institutions?*

Yes it should but any such redress should be taken into account when assessing what further redress might be appropriate.

However, if there have been payments from an abuser through civil or criminal action they should not be taken into account. That is because the purpose of the redress is to acknowledge responsibility for the fact abuse occurred. As it is not truly compensatory then other payments should be disregarded.

D. *If a survivor is deceased, do you think their family members or whānau should be able to make redress claims?*

Yes; it recognises the wider effects of abuse and the mana of the deceased.

## Question 5

### What types of redress should be available?

A. *What types of redress should survivors of abuse in care be able to get from a redress scheme? For example:*

- *Someone investigating their claims?*
- *Someone acknowledging the abuse?*
- *Someone saying sorry to them?*
- *Should they be able to get counselling to help them?*
- *Should they get money?*
- *Should they get rehabilitation services (like the services referred to in question C below)?*

The redress available to survivors should include:

- acknowledgment by the independent body that there was a real possibility the abuse occurred;
- acknowledgment and apologies from institutions and individuals;
- counselling and psychological and spiritual support (where desired);
- a redress payment;
- where sought by the survivor a reconnection with the relevant institution;
- rehabilitation services; and
- reconnecting them with their family/whānau.

B. *If you think survivors should get money, what do you think the payment of money should try to achieve? For example, should a payment aim to:*

- *be enough money to make up for the abuse suffered? In other words, seek to compensate for the impact of and loss caused by the abuse?*
- *be enough money to say that we acknowledge and are sorry for what happened to you, but we know that it will not make up for what you have suffered. In other words, seek to be a tangible acknowledgement of the abuse and its effects, but not to compensate for them?*

The redress payment should be a real and tangible acknowledgment of the abuse and its effect, and the institutional responsibility for it, but it should not attempt to seek to compensate for the impact of and loss caused by the abuse. Redress payments should have a cap of \$150,000 New Zealand to be paid to the most severe instances with the highest impact and lower levels of payment would then be expected for less severe instances with lower impact (similar to that for the National Redress Scheme in Australia).

While survivors will be disappointed at the failure to provide full compensation any scheme that attempts to provide full compensation, without allowing a court process, would ultimately be undermining the legal rights of individuals and institutions. In a sense it is the trade-off for having a quicker process with less exacting standards of proof.

The redress scheme will be imposing on institutions financial liability which did not previously exist at law. It will also be done retrospectively. These two factors point to the need for redress payments to be real and tangible acknowledgments rather than compensatory.

The general legal principle is that retrospective liability is not imposed for a variety of good reasons. For example, institutions could have obtained insurance and may have modified their conduct to minimise their exposure and the chances of abuse. Because the law did not make them liable at the time, they missed their chance to properly assess their legal risk and respond appropriately.

This is not intended to minimise the effect of abuse but to simply acknowledge that a general societal approach has contributed to the level of abuse through the failure to impose liability at the time.

This position also reflects that compensation payments should not be at a level where they are unaffordable for non-government institutions. The scheme needs to be economically feasible for those who contribute to it because of the effect on small schools and care institution with limited resources.

*C. Services that could be available or accessed through a redress scheme include assistance with education and employment, healthcare, accessing secure housing, financial advisory services, community activities, counselling, and helping survivors to build and maintain healthy relationships with their families and children. If you think services should be available through a redress scheme:*

- *what kinds of services would be most important?*
- *why do you think it is important for survivors to get these services?*
- *what do you think should be the aim(s) of survivors having access to these services? In other words, what should be the outcome or outcomes for survivors from these services?*
- *should survivors have access to services on an ongoing basis depending on what they need?*
- *or should survivors have access to services up to a particular cost or for a set time period?*

As set out above the redress scheme should provide access to counselling and psychological and spiritual support. This is important to enable survivors to address the impact of abuse.

Apart from that the most important service a redress scheme could provide is advocacy with other organisations and agencies. Rather than attempting to replicate work done by other government agencies the redress scheme should provide survivors with access to advocates who will take responsibility for assisting them to have their needs met. This should be done on a long-term basis but with the expectation that once the survivors needs are met then less assistance will be provided.

*D. Should redress be available for family members or whānau of survivors? If it should, what types of redress should family members be able to access?*

Redress should be available for family member or whānau or survivors but should be limited to counselling and psychological and spiritual support unless the survivor is deceased, in which case all forms of redress should be available.

*E. Should a redress scheme provide other types of collective redress for abuse in care (that is, types of redress given to groups of survivors or other groups affected as a group by abuse in care)? If it should, what types of collective redress should the scheme provide?*

Collective redress should be available including collective redress payments, collective apologies and acknowledgments.

*F. Should a redress scheme give survivors a choice between:*

- *a brief, quickly resolved assessment, which might give survivors a lower monetary payment and access to some services?*
- *an extensive and longer-to-resolve assessment, which might give survivors a higher monetary payment and access to more services?*
- *or should all claims have the same type of assessment, and the same range of potential outcomes available?*

A critical principle is consistency. A redress scheme should give all claims the same type of assessment the same range of potential outcomes. A brief, quickly resolved assessment with a lower monetary payment and access to services is the most appropriate given:

- the evidential difficulties with assessing historic complaints; and
- the issues with legal liability for institutions where abuse occurred (including limitation issues, vicarious liability, the ACC bar and so on).

## Question 6

**What review or appeal processes should there be in any new redress scheme?**

*Some overseas redress schemes allow survivors who do not agree with a decision by the redress scheme to ask another person or organisation to review the scheme's decision. Survivors could also be allowed to appeal a decision to a Court or another organisation that works like a Court.*

*A. Should a survivor be able to apply for review of, or appeal against, a decision made by the redress scheme on their application?*

There should be an ability to have decisions reviewed. It could be done by way of appeal on limited grounds to the High Court in order to allow a system of precedent to become established.

*B. Should an individual and/or institution named in an application be able to apply for review of, or appeal, a decision made by the redress scheme on that application?*

As a matter of fairness and natural justice rights of review or appeal should be given to all affected by a decision.

## Question 7

**Which organisations should be included in any new redress scheme, how should it be funded, and what should ACC do?**

*A. If a new redress scheme were established, should that scheme be responsible for assessing claims relating to abuse in the care of:*

- *government (including organisations contracting with government to provide care) and faith-based institutions?*
- *only government institutions?*
- *only faith-based institutions?*

Any redress scheme should cover all types of institutions whether government or faith-based or private but secular.

*B. Should there be any limit on the types of government and/or faith-based institutions included in any new scheme? If so, what should those limits be?*

The scheme should only extend to institutions involved in the provision of care.

*C. If a new scheme were established to decide claims for redress relating to government and faith-based institutions, should faith-based institutions:*

- *not be included in the scheme unless they choose to opt-in?*
- *be included in the scheme unless they choose to opt-out?*
- *have no choice about being included in the scheme? In other words, not have a choice to opt-in or opt-out?*

The redress scheme should be compulsory for faith-based institutions.

*D. If a new scheme were established to assess claims for redress relating to government and faith-based institutions, should a survivor:*

- *only be able to make a claim for out-of-court redress to the new scheme?*
- *be able to choose whether to make a redress claim to the new scheme or to go directly to the government or faith-based institutions?*

The survivor should have the right to either approach the relevant institution directly or apply to the redress scheme. If the institution and survivor cannot agree then the right to apply to the redress scheme would remain. The right to take action in court should be removed for the reasons outlined earlier.

In circumstances where the survivor has chosen to seek financial redress through the redress scheme, it should remain open to them to seek reconciliation and reconnection with the community directly.

An independent redress scheme should make clear to survivors the levels of financial redress available to them prior to engaging in the process.

*E. If a new scheme were responsible for assessing claims for redress relating to government and faith-based institutions, how should that scheme be funded? For example, should:*

- *government and faith-based institutions have to contribute on a claim-by-claim basis according to the extent of their responsibility for the claim?*
- *the government seek funding contributions from faith-based institutions, but be ultimately responsible for funding the new scheme?*

The administrative costs of the scheme should be met from an appropriation by Parliament.

The costs of providing redress should be met by institutions by way of an annual levy similar to the way ACC is funded. That means survivors can be assured of redress even if the institution is insolvent or no longer exists.

The amount payable can be adjusted depending on the number of claims against particular types of institutions or providers (such as schools, care agencies or sporting clubs). This enables levies to be done on a sector-wide basis which will reduce a risk of insolvency for smaller institutions or clubs.

Churches are in a different position given the moral claims made by them. Levies should be more specifically targeted based on the actual number of cases by each denomination or, where not affiliated to a denomination, by individual congregation.

The definition of institution will need to be carefully considered and should focus on the legal entity involved. For churches it should be on a denomination basis or, where not affiliated to a denomination, by individual congregation.



*F. Some survivors of abuse in care can make claims to the Accident Compensation Corporation. If a new scheme were established to assess claims for redress relating to government and faith-based institutions, what do you think the relationship between that scheme and ACC should be? Or rather than establishing a new scheme, should ACC be responsible for assessing all out-of-court claims for redress for abuse in care relating to government and faith-based institutions?*

The needs of ACC claimants and survivors can be quite different. For that reason, there should be a separate redress scheme rather than incorporating it into ACC. It also ensures independence from government as discussed earlier.

A nuanced approach is required when it comes to ACC. As redress payments are not intended to be compensatory, they should not be taken into account for the purposes of ACC (or any other welfare payments that are made to survivors). To do otherwise would be inconsistent and unjust.

To the extent the redress scheme provides services that would be funded by ACC (such as counselling support) then ACC should not provide those services but should fund them.

ACC payments should not be affected by redress payments.

It seems best if survivors claim all compensation through the redress scheme. That should provide efficiencies and a “one-stop shop” for compensation.

## Question 8

**What is required for a redress scheme to be consistent with te Tiriti o Waitangi / the Treaty of Waitangi, and with tikanga?**

*A. To be consistent with te Tiriti o Waitangi / the Treaty of Waitangi, and with tikanga:*

- *how should a redress scheme for abuse in care be designed?*
- *how should a redress scheme operate?*
- *what should a redress scheme make available or facilitate in terms of redress?*
- *should there be a separate redress scheme for Māori?*

The redress scheme should be designed in consultation with iwi and hapū and Māori survivors to help ensure consistency with Te Tiriti and tikanga.

The principles and frameworks of matauranga Māori including concepts such as whakapapa (genealogy/kinship/relationships), whanaungatanga (broader relationships, whanau obligations), kaitiakitanga (protection and nurture of whanau and the environment), manaakitanga (effort and resource required to care for others) and aroha (love/empathy/compassion) should be incorporated into the scheme and its operations.

It is worthwhile considering separate 'strands' of the scheme to respond to different cultures – including a separate one for Māori.

*B. Should a redress scheme allow for collective redress for whānau, hapū and iwi affected by abuse in care? If you think it should:*

- *who should assess a collective claim?*
- *what should the scheme provide or give access to as collective redress?*

Any scheme should allow for collective redress for whānau, hapū and iwi in accordance with tikanga.

*C. What are or might be the barriers to Māori survivors in accessing a redress scheme?*

It is not appropriate for the Anglican Church to comment on barriers survivors might face.

*D. If a new redress scheme were established to assess claims for redress for abuse in care, what do you think the relationship between that scheme and the Waitangi Tribunal should be?*

The redress scheme should be able to refer matters to the Waitangi Tribunal where there are concerns about a breach of the principles of Te Tiriti.

## Question 9

**Should an out-of-court redress scheme be culturally appropriate for each individual survivor who applies to it, such as survivors from Pacific communities?**

*A. Should an out-of-court redress scheme aim to be culturally appropriate for all survivors who may apply to it? For example, should it provide or allow for cultural practices other than those of Māori, such as Pacific cultural practices?*

It is vital that any redress scheme responds to survivors in their cultural context. To that end separate 'strands' of the scheme to respond to different cultures should be considered.

*B. If an out-of-court redress scheme should aim to be culturally appropriate for all survivors:*

- *how should the scheme be designed?*
- *how should the scheme operate?*
- *what should the scheme make available or facilitate in terms of redress?*

The scheme should be designed in consultation with appropriate cultural experts and it should operate at all times in culturally appropriate ways.

Variations in forms of redress to allow for different cultural response should be incorporated into the scheme.

## **Question 10**

### **How should a redress scheme be made accessible?**

*A. What are, or might be, the barriers that disabled and other survivors may experience in accessing out-of-court redress?*

It is not appropriate for the Anglican Church to comment on barriers survivors might face.

*B. To make an out-of-court redress scheme accessible and effective for disabled and other survivors:*

- *how should the scheme be designed?*
- *how should the scheme operate?*
- *what should the scheme make available or facilitate in terms of redress?*

The scheme should be designed in consultation with disability advocates and help to ensure any scheme operates in a manner that is accessible.

*C. What does a redress scheme need to think about when arranging for or providing redress to disabled survivors living in long-term or lifelong care?*

The forms of redress should allow for long term payments to disabled survivors in long-term or lifelong care rather than lump sums if that is what they want. It should not presume, however, that will necessarily be what the survivors desire.

*D. What should a redress scheme do to make redress effective for survivors living in long-term or lifelong care?*

It is not appropriate for the Anglican Church to comment on this issue.

*E. What should a redress scheme do to try to make sure that survivors know about it and can access it?*

Any redress scheme should be well publicised and the material easily accessible in multiple languages and forms. Information should be disseminated widely in society including in churches, schools and prisons.

## Question 11

### Should there be changes to the civil litigation system for cases of abuse in care?

*What if any changes would you like to see to the civil litigation (Court) system for cases of abuse in care?*

If a redress scheme is established, it should be instead of civil litigation. Claims relating to abuse should be resolved either through discussions with the institutions or through the redress scheme and there should be no ability to litigate matters. This is how the ACC legislation operates in relation to claims for compensation for physical injury.

In return survivors will be able to bring claims to the redress scheme without worrying about limitation issues and legal costs and risks and knowing that the redress scheme will start from a position of belief without the level of scrutiny you might get through the courts.

## Question 12

### Do you have any other comments to make arising out of these questions?

In terms of confidentiality, it should be clear that the Official Information Act 1982 does not extend to any independent redress scheme established.

All programmes will confront unexpected challenges. To enable both effectiveness and efficiency, programmes should be subject to periodic reviews that involve a wide range of stakeholders. For example, the Australian NRS has a two-year and eight-year review process. In addition, the Parliamentary Joint Select Committee reported to Parliament approximately one-year post-implementation. A robust review process can identify systemic problems and help stakeholders develop confidence in the programme's impartiality.